COMMUNICATION

OF THE

PRESIDENT OF THE

CHESAPEAKE & OHIO CANAL COMPANY,

Enclosing a Law passed by the Legislature of Virginia on the twentieth instant, to amend the Charter of said Company, and asking the assent of the Legislature of Maryland thereto.

ANNAPOLIS:

WILLIAM M'NEIR, PRINTER.

1844.

COMMUNICATION.

To the Honorable,
the General Assembly of Maryland.

We have the honor herewith to communicate for the assent and confirmation of the Legislature of Maryland a certified copy of a law passed by the Legislature of Virginia "further to amend the act incorporating the Chesapeake and Ohio Canal Company, passed January 20th 1844," together with a copy, substantially, of the memorial of the President and Directors of the Chesapeake and Ohio Canal Company, which was presented to the Legislature of Virginia on the 26th ultimo, and upon the prayer of which said law was enacted. In our annual communication addressed to the Executive of Maryland on the 15th of December last, we went into some detail in regard to the necessity of an amendment to the charter of the Company in the manner provided for by this law, and the facts therein contained in this behalf are also substantially set forth in the accompanying copy of the memorial to the Virginia Legislature, to which we respectfully refer you. The section of the act in reference to the *grant of a power* to construct a slack water navigation to the mouth of Savage was inserted in the draft of the law after the memorial was prepared and signed, and was put in, in consequence of doubts being entertained whether under the amendment of the charter of the Company, passed by the Legislature of Maryland at its December session, 1826, and assented to by Congress in the year 1827, a branch from the main Canal to the Coal Banks at or above the mouth of Savage River, could be made unless the western section of the Canal were undertaken and prosecuted. To remove these doubts, and to enable the Company to construct such branch whenever the State of Maryland shall see fit to cause the same to be done, we deemed it expedient to obtain from Virginia, a clear and unequivocal right to do so, independent of any movement in regard to the western section.

The very great importance of *all the provisions* of the law in question are manifest, and will, we hope, be readily appreciated by all conversant with the affairs of the Company and the magnitude of the State's interest in the work. We therefore shall forbear any further explanation of them as we consider it altogether unnecessary.

We respectfully ask of the General Assembly of Maryland that they will pass an act confirming and assenting to the accompanying law of the Legislature of Virginia, amending the charter of the Chesapeake and Ohio Canal Company.

We shall likewise take early measures for obtaining the assent of Congress thereto, which we feel perfectly sure will be promptly accorded to us.

By order of the Board,
J. M. COALE,
Prest. Ches. & Ohio Canal Com.

AN ACT

Further to amend the Act incorporating the Chesapeake and Ohio Canal Company, passed January twentieth, eighteen hundred and forty-four.

Be it enacted by the General Assembly, That the time limited and prescribed by the act entitled, "An act incorporating the Chesapeake and Ohio Canal Company," and the amendments thereto, for completing the first or eastern section of the Chesapeake and Ohio Canal be, and the same is hereby enlarged and extended to the first day of July, eighteen hundred and fifty-five, and that no rights, privileges or advantages granted by law, shall be forfeited or lost, in case the said eastern section shall be finished within the time herein allowed, any thing in any act to the contrary notwithstanding.

Be it further enacted, That the Chesapeake and Ohio Canal Company, whenever it may deem it expedient, without reference to the western section of the Canal, and whether it shall be commenced or not, shall have power and authority, to extend the branch from the main Canal, by slack water navigation, with dams and locks or otherwise, to the Coal Banks, at or above the mouth of Savage River—and in regard thereto, shall have and enjoy all the rights and advantages provided by the act passed by the Legislature of Maryland, at its December session 1826, entitled, "an act to amend the act incorporating the Chesapeake and Ohio Canal Company," and assented to by the Legislature of Virginia, on the 27th day of February, 1827.

Be it further enacted, That the President and Directors of the Chesapeake and Ohio Canal Company or a majority of them assembled, shall have full power and authority to borrow money (provided the State of Virginia shall not be bound beyond her interest in the stock of the Company) from time to time, to carry into effect the objects authorized by

the charter of said Company, to issue bonds or other evidences of such bonus, and to pledge the property and revenues of the said Company, for the payment of the same, and the interest to accrue thereon, in such form and to such extent as they may deem expedient: *provided* that nothing herein contained shall be construed to impair the prior rights or liens of the State of Maryland under the mortgages heretofore made and executed by the Chesapeake and Ohio Canal Company, to said State, but the same shall be held binding and be accordingly respected, except in so far as the same may hereafter be waived, deferred or postponed, by the legislature of said State.

And be it further enacted, That this act shall take effect and be in force as soon as it shall have received the assent of the Legislature of the State of Maryland—of the Congress of the United States—and the Stockholders of the said Chesapeake and Ohio Canal Company, in general meeting assembled.

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State of Virginia, City of Richmond, to wit:

I, GEORGE W. MUNFORD, Clerk of the House of Delegates and keeper of the Rolls of the Commonwealth of Virginia, do hereby certify and make known, that the foregoing is a true copy of an act passed by the General Assembly of Virginia, on the twentieth of January eighteen hundred and forty four.

Given under my hand this twentieth of January, eighteen hundred and forty four.

GEORGE W. MUNFORD,
Cl'k. House of Delegates,
and keeper of the Rolls of Va.

COPY

Of the Memorial to the Legislature of Virginia.

To the Honorable,
the General Assembly of Virginia,

The memorial of the President and Directors of the Chesapeake and Ohio Canal Company respectfully states, that by the twentieth section of the act incorporating said company, passed by the Legislature of Virginia, on the 27th day of January 1824, confirmed in all its provisions by the Legislature of Maryland on the 31st of January 1825, and assented to by Congress on the 3rd of March 1825, "so far as its provisions were necessary to carry it into effect in the District of Columbia but no further" it is provided that the said company shall complete the

eastern section of said Canal, which by an amendment to the charter passed in 1827, is authorized to be terminated at or near the Town of Cumberland, in the term of twelve years from the commencement of said work.

And your memorialists state, that under and by virtue of the said several acts of incorporation, the Chesapeake and Ohio Canal Company was duly organized by the election of President and Directors, on the 20th day of June 1828, and on the fifty-second anniversary of American Independence, the President of the United States dug the first spade full of earth from the channel of said Canal. It was not, however, until the ensuing September, in the year 1828, that the Chesapeake and Ohio Canal was in effect begun: and from that time the work was vigorously entered upon, and prosecuted from Georgetown upwards.

And your memorialists state, that a dispute and controversy having arisen between the Baltimore and Ohio Rail Road Company, and the Chesapeake and Ohio Canal Company as to the prior right of route, particularly at the narrow pass called the Point of Rocks, about fifty miles above Georgetown, and on the banks of the Potomac river, the said Baltimore and Ohio Rail Road Company, on the 23rd, 24th and 25th of June, in the year 1828, filed three several bills of complaint in the High Court of Chancery, against the said Chesapeake and Ohio Canal Company, and on the last mentioned day obtained an injunction against the said company forbidding it from proceeding further in the prosecution of its works.

And your memorialists state, that the said injunction was confirmed by the Chancellor and remained in force, and prevented this company from prosecuting its work, above the point in question, until the same was dissolved by the Court of Appeals of Maryland, on the 5th of January 1832, by which the company was in that portion of the time delayed and retarded nearly four years.

And your memorialists state, that if allowance be made for the time during which the Company's work was suspended by the high mandates of the law as aforesaid, the term allowed for the completion of the eastern section of the Canal would expire in the month of April 1844.

And your memorialist state, that as said injunction was dissolved the said company resumed operations, and diligently and vigorously proceeded in its work. And your memorialists state, that the Canal is now finished to Dam No. six, which is one hundred and thirty four and a half miles from Georgetown, and within fifty miles of the Town of Cumberland Of these fifty miles there are thirty-one seven tenth miles of Canal finished at a cost of $2.680.000—but they were constructed in unconnected sections, and are consequently valueless and incapable of being used, until the whole are finished—only eighteen three-tenth miles remain to be done, which are estimated by the Chief Engineer to cost $1.545 000, and which, when completed, *will finish the entire eastern section of the Canal to Cumberland* The finished portion above mentioned was all done prior to the summer of 1841, and the means of the company being at that time exhausted it was compelled to stop any

further progress. The liberal aid which had previously been extended to the company by the State of Maryland, and on which great loss was sustained by the company, by reason of the depreciation of the State Bonds, was then all expended. That State was unable from its heavy pecuniary liabilities, and the unprecedented pressure of the times to render any more assistance, and the company was destitute of means to prosecute any further its great undertaking. In this condition of things time passed on, and the period allowed for completing the eastern section of the Canal has nearly expired.

In the improved condition of affairs, and the apparent abundance of money seeking investments, your memorialists are now assured that if the company be allowed to raise the means by an express grant of authority; and the term for completing the work be extended, the Canal can be finished within a very short time, and without further interruption.

It is expected that Maryland will waive her existing liens for that purpose, and she is able to do no more under her present large debt, *and all we ask of Virginia* is that she will consent to give the company further time to complete the Canal, and an express authority to borrow money on its own credit, and the pledge of its property, to carry into effect the objects authorized and contemplated by the act of its incorporation.

Under the present charter your memorialists conceive that the company possesses the authority to borrow money as incidental to the powers granted, and as being necessary to carry into effect the objects of the act of incorporation, but in the existing condition of things, and the great caution with which capitalists invest their funds, your memorialists have reason to believe, that an express authority to that effect will greatly aid and facilitate their efforts in this behalf, and enable them, upon fair and advantageous terms to obtain the requisite means to complete the work to Cumberland.

The authority however, should be granted so as not to be susceptible of being construed into an interference with existing liens on the property of the company, as otherwise it would not receive the sanction of the State of Maryland, and because also honesty and good faith demand that existing engagements, should be held inviolable. We feel confident, however, that, if this be done, Maryland will waive and postpone her claims upon the company by a separate law, as that is the only mode now remaining by which the work can be finished, and until it is finished none can reap any benefit from its avails.

Your memorialists do not deem it necessary to go into a recital of the long and numerous embarrassments, which this company has labored under as they are doubtless well known to the public: nor to speak of the great benefits which are to result from the completion of the work, which it has in hand. In the success of the great enterprize, Virginia is deeply interested. She was the first to patronize and bring the company into existence. Her citizens residing in the counties

bordering on the river Potomac are already reaping some of the benefits of the Canal in having by it the advantage of a cheap communication with the markets on tide-water. When the work is finished these advantages will be greatly increased and the benefits be more widely extended. We therefore respectfully hope that the consideration of benefit to the State, as well as of justice to the Stockholders of the company and its numerous and meritorious private creditors, to whom the company is indebted for their labor on the finished portion of the work, to the amount of one million of dollars and upwards, and who cannot be paid until the Canal is finished to Cumberland, as its revenues at present are barely sufficient to keep the work in repair, and pay current expenses, will induce your honorable body to comply promptly with the reasonable prayer of this petition. We only ask you to extend the time allowed for completing the eastern section of the Canal to Cumberland, and to give an *express* authority to the company to borrow money on its own credit for the objects authorized by the charter. Of the State of Virginia we ask no more, unless indeed that your honorable body will act speedily on the subject, and pass the necessary law as early as practicable. It will have to receive the assent of the Maryland Legislature, and *after* such assent is given Maryland will still have to pass another law on the subject of waiving its liens, and providing payment for the private creditors of the company, all which will consume time, and a short session is contemplated by them. For these reasons as well as that the company may take early measures to resume the work on the Canal, your memorialists pray that the earliest practicable action be afforded to their application. It is plain and just. It asks nothing of Virginia but an allowance of further time, and the giving expression to an authority, already possessed, and there can therefore we hope be but little cause for delay in complying with it. And your Memorialists

will ever pray, &c.

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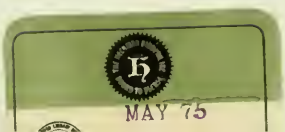
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